



Setti D. Warren
Mayor

City of Newton, Massachusetts
Department of Planning and Development
1000 Commonwealth Avenue Newton, Massachusetts 02459

Telephone
(617) 796-1120
Telefax
(617) 796-1142
TDD/TTY
(617) 796-1089
www.newtonma.gov

Candace Havens
Director

MEMORANDUM

Public Hearing Date: May 10, 2011
Land Use Action Date: June 22, 2011
Board of Aldermen Action Date: August 8, 2011
90-Day Expiration Date: August 12, 2011

DATE: May 6, 2011

TO: Board of Aldermen

FROM: Candace Havens, Director of Planning and Development
Eve Tapper, Chief Planner for Current Planning ET
Derek Valentine, Senior Land Use Planner

SUBJECT: Petition #104-11 by HEIDI K. GARDNER for a SPECIAL PERMIT/SITE PLAN APPROVAL to EXTEND A NONCONFORMING STRUCTURE into the rear setback by expanding and enclosing an existing breezeway to create a mudroom, increasing the floor area ratio from .369 to .389 at 61 PARK AVENUE, Ward 7, on land known as SBL 73, 7, 15, containing approximately 9,665 sq. ft. of land in a district zoned SINGLE RESIDENCE 2. Ref: Sec. 30-24, 30-21(b) of the City of Newton Rev Zoning Ord, 2007.

The purpose of this memorandum is to provide the Board of Aldermen and the public with technical information and planning analysis which may be useful in the special permit decision making process of the Board of Aldermen. The Planning Department's intention is to provide a balanced view of the issues with the information it has at the time of the public hearing. There may be other information presented at or after the public hearing that the Land Use Committee of the Board of Aldermen will want to consider in its discussion at a subsequent Working Session.



EXECUTIVE SUMMARY

The petitioner's property consists of a small lot improved with a Tudor-style home built in the 1930s. The petitioners are not adding to the footprint of the structure, but propose enclosing an existing breezeway to provide a weather-proof connection from the main house to the garage. The breezeway is presently partially covered. The addition will constitute an expansion of a structure which is already nonconforming with regard to floor area ratio (FAR) and rear yard setback. The proposal will have very little impact on the neighborhood and will be unnoticeable from the street as well as from adjacent properties.

I. SIGNIFICANT ISSUES FOR CONSIDERATION:

When reviewing this petition, the Board should consider whether the extension of a structure, which is nonconforming with regard to rear yard setback and FAR, is not substantially more detrimental to the neighborhood for the following reasons:

- a. There will be no expansion of the existing footprint of the house and the property will remain conforming with regard to lot coverage and open space.
- b. The visual impact from the street and adjacent properties will be insignificant, as the mass of the building is increasing slightly with the addition of an enclosed breezeway.
- c. The property is currently well-screened with a combination of plant material and brick/wood fencing.
- d. The renovations are historically appropriate to the period and style of the 1930s home.

II. CHARACTERISTICS OF THE SITE AND NEIGHBORHOOD

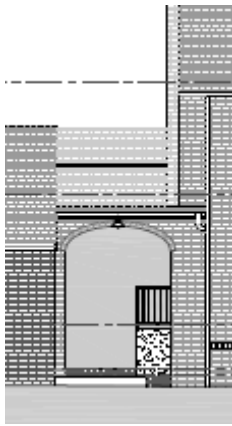
A. Neighborhood and Zoning

The subject site is located on Park Avenue between Brackett Road and Green Park in Newton Corner. Small parcels are common in the vicinity of the petitioner's site. Most properties contain less than 10,000 square feet of land. It is a mature neighborhood, with most of the houses dating from the early 20th Century.

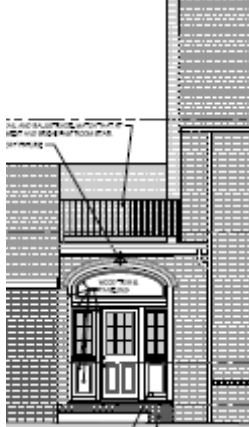
B. Site

The house is located very close to the rear property line on a rectangular lot on the corner of Brackett Road and Park Avenue. The site is level and surrounded on the sides and rear with shrubbery and fencing.

III. PROJECT DESCRIPTION AND ANALYSIS



West Elevation Existing



West Elevation Proposed

A. Land Use

The property will remain in single-family residential use.

B. Building and Site Design

The house and garage will remain as is. The breezeway that currently separates the two will be enclosed. There will be no addition to the footprint of the structure. No changes to the site are proposed.

C. Parking and Circulation

There are no changes proposed.

D. Landscape Screening

The side and rear property lines are currently heavily screened with a combination of plantings and brick/wood fencing. Since this landscaping is sufficient and there is no additional building bulk proposed, no new landscaping is required.

IV. TECHNICAL REVIEW

A. Technical Considerations.

The garage and breezeway are located within the rear setback. The proposed breezeway enclosure within this rear setback will represent an expansion of a nonconforming structure, which requires relief under Newton Zoning Ordinance, Section 30-21(b). The property is also nonconforming with regard to FAR (the garage is currently considered attached for the purposes of FAR calculation). The proposed FAR is .389 where an FAR of .35 is allowed by right (.30 plus a .05 bonus

for a pre-1953 lot). An expansion of the already nonconforming FAR (existing FAR is .369) requires relief under Section 30-21(b) which authorizes the expansion of a nonconforming structure.

B. Newton Historical Commission.

This project is minor and does not require review.

C. Engineering Review.

Since no additional impervious surface is proposed, no drainage improvements are required.

V. ZONING RELIEFS SOUGHT

Based on the completed Zoning Review Memorandum ("ATTACHMENT C"), the petitioner is seeking the following reliefs:

- Section 30-21(b) to allow the extension of a nonconforming structure in the rear setback and to allow an increase in the nonconforming FAR
- Section 30-24 for issuance of a special permit

VI. PETITIONERS' RESPONSIBILITIES

The petition is complete at this time.

ATTACHMENTS:

ATTACHMENT A: VICINITY ZONING MAP

ATTACHMENT B: VICINITY LAND USE MAP

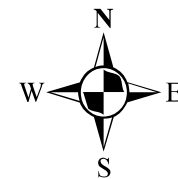
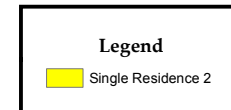
ATTACHMENT C: ZONING REVIEW MEMO

ATTACHMENT D: FAR VICINITY MAP

ATTACHMENT E: DRAFT BOARD ORDER #104-11

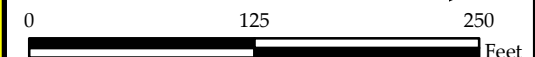
61 Park Vicinity Zoning

*City of Newton,
Massachusetts*



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GIS Administrator - Douglas Greenfield



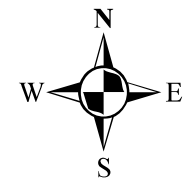
MAP DATE: May 03, 2011

ATTACHMENT A



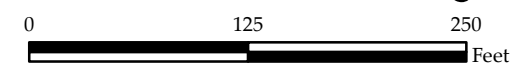
61 Park Avenue Vicinity Land Use

*City of Newton,
Massachusetts*



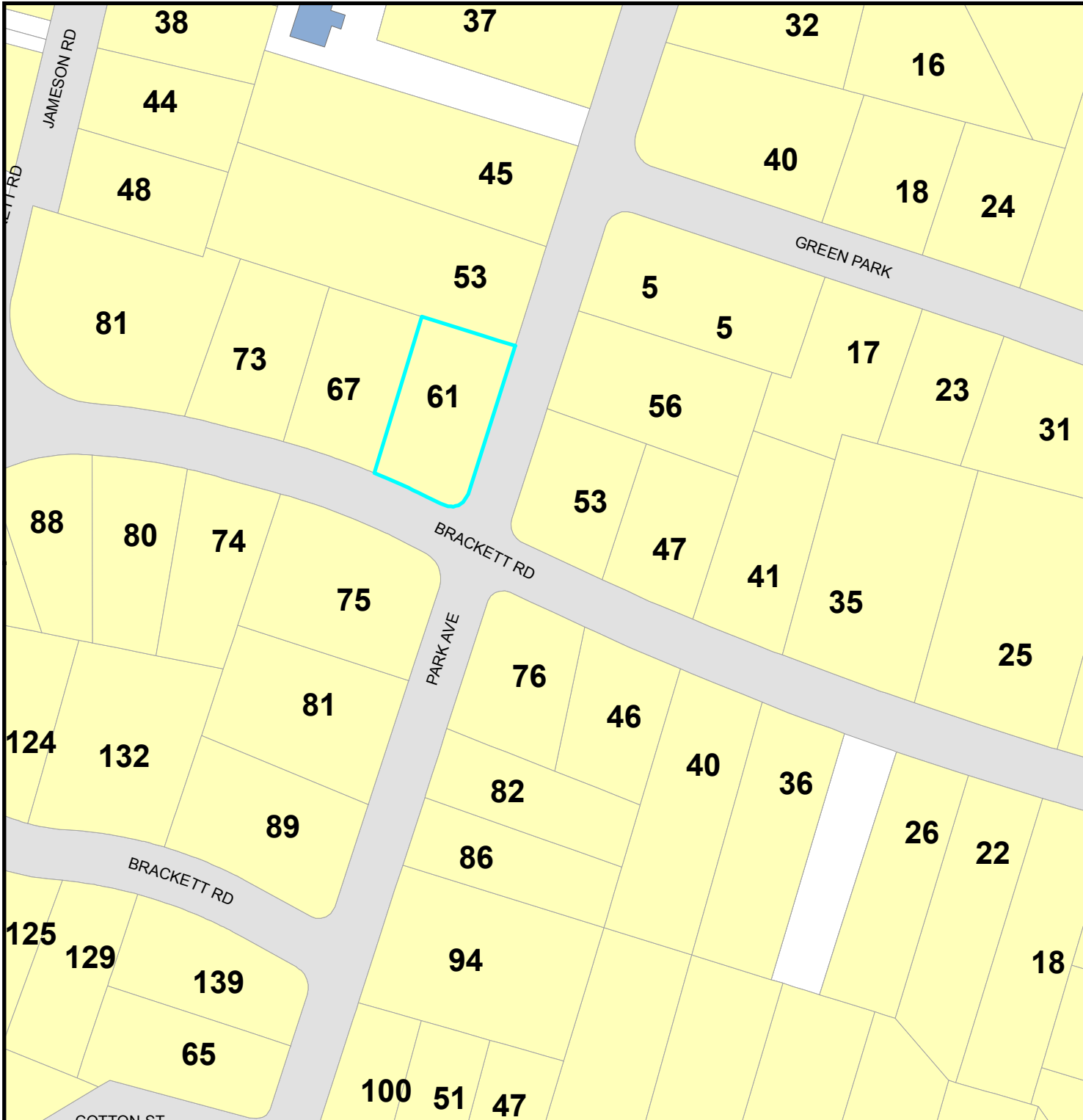
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CITY OF NEWTON, MASSACHUSETTS
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MAP DATE: May 03, 2011

ATTACHMENT B





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Candace Havens
Director

ZONING REVIEW MEMORANDUM

Date: March 23, 2011

To: John Lojek, Commissioner of Inspectional Services

Fr: Seth Zeren, Chief Zoning Code Official
Eve Tapper, Chief Planner for Current Planning^{ET}

Cc: Laura Meyer, architect representing applicant
Candace Havens, Director of Planning and Development
Ouida Young, Associate City Solicitor

RE: **Request to allow an increase in FAR**

Applicant: Heide Gardner and Ivan Matviak	
Site: 61 Park Avenue	SBL: 73007 0015
Zoning: SR2	Lot Area: 9,665 square feet
Current use: Single-family dwelling	Proposed use: Single-family dwelling

Background:

The property at 61 Park Avenue consists of a single-family dwelling located on 9,665 square feet of land in the Single Residence 2 (SR2) zone. A two-car garage is connected to the dwelling by a covered breezeway and is considered "attached." The existing property is nonconforming with regard to rear setbacks and FAR. The applicant proposes to expand and enclose the breezeway space to create a new mudroom.

The following review is based on plans and materials submitted to date as noted below.

- Architectural plans, Meyer and Meyer Architects, unsigned, unstamped, and undated
 - Site Survey
 - Existing First Floor Plan
 - Proposed First Floor Plan
 - Proposed West Elevation
 - Exterior Elevations
- Site plan, signed and stamped by Elliot J. Paturzo, engineer, dated 2/25/11
- Revised site plan, signed and stamped by Elliot J. Paturzo, engineer, dated 3/25/11

- Letter from Laura B. Meyer, architect, showing existing and proposed dimensional and density zoning requirements

ADMINISTRATIVE DETERMINATIONS:

1. The property is in the SR2 zone and must comply with the dimensional standards of Section 30-15, Table 1 for a pre-1953 lot (see chart below).

SR2 Zone	Required/Allowed	Existing	Proposed
Lot Size	10,000 square feet	9,665 square feet	No change
Frontage	80 feet	120 feet	No change
Setbacks			
• Front	25 feet	27.4 feet	No change
• Side	7.5 feet	16.4 feet	No change
• Rear	15 feet	9.4 feet	No change
FAR	.35*	.369	.389
Building Height	30 feet	27.2 feet	No change
Maximum Stories	2.5	2	No change
Max. Lot Coverage	30%	22.2%	23.2%
Min. Open Space	50%	66.2%	65.8%

* Maximum FAR in the SR2 zone is .3, but the property qualifies for a .05 bonus to FAR because the proposal is an addition to an existing structure over ten years old on a pre-1953 lot.

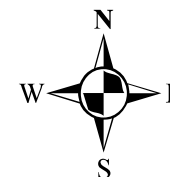
2. The applicant proposes an expansion of an existing nonconforming structure. The proposed mudroom is located partially in the rear setback but is less nonconforming than the existing garage. To construct the project as proposed, the applicant must obtain a special permit from the Board of Aldermen, per Section 30-21(b).
3. The proposed mudroom also increases the already nonconforming FAR. To construct the project as proposed, the applicant must obtain a special permit from the Board of Aldermen, per Section 30-21(b).
4. See “Zoning Relief Summary” below:

Zoning Relief Required		
<i>Ordinance</i>	<i>Structure</i>	<i>Action Required</i>
§30-21(b)	Allow the extension of a nonconforming structure in the rear setback	S.P. per §30-24
§30-21(b)	Allow an increase in FAR	S.P. per §30-24

61 Park Vicinity FAR

*City of Newton,
Massachusetts*

Note: FAR calculated with
data from the Newton Assessor's
Database and is intended
for informational purposes only.



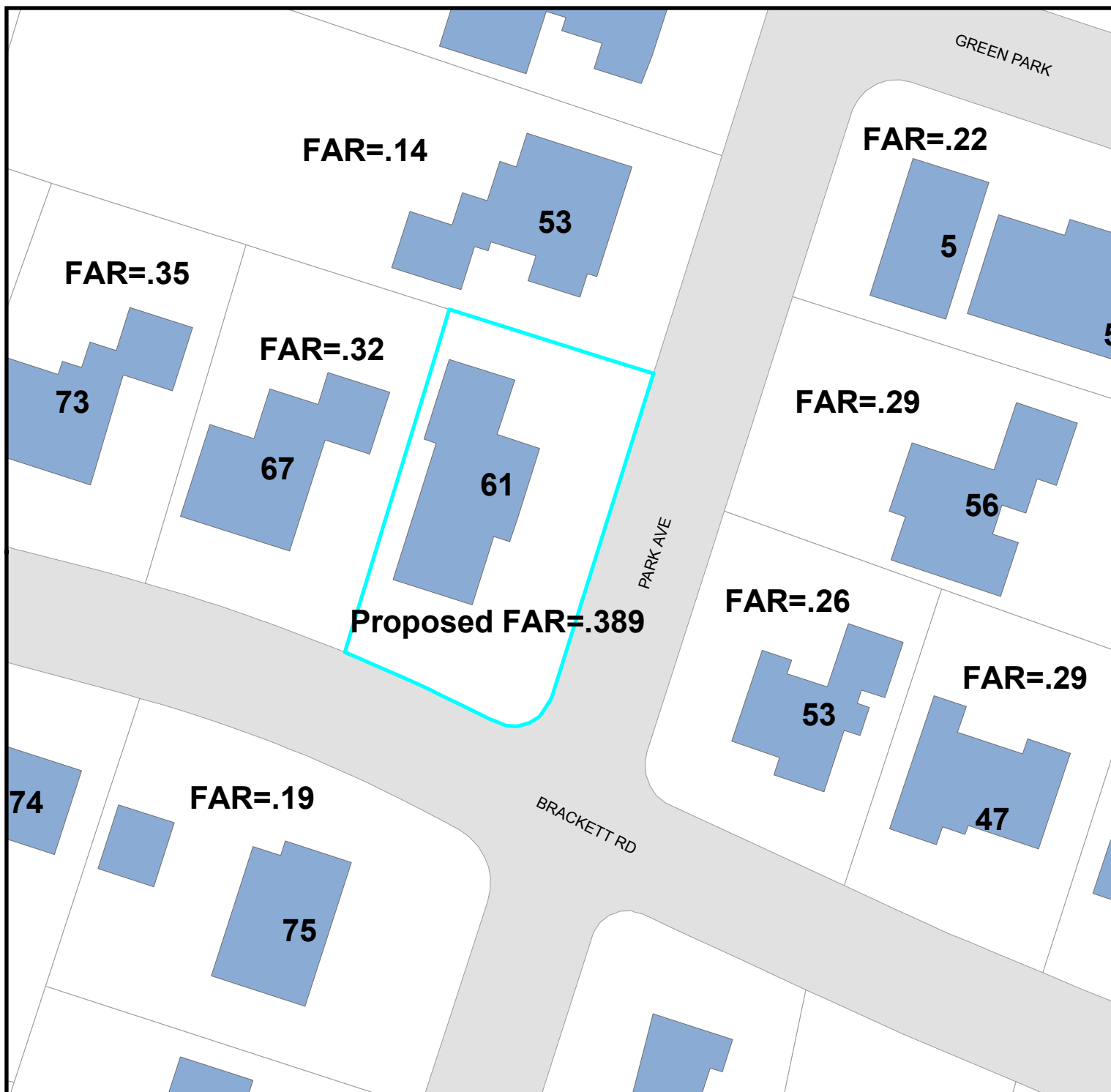
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CITY OF NEWTON, MASSACHUSETTS
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GIS Administrator - Douglas Greenfield

0 10 20 30 40
Feet

MAP DATE: May 05, 2011

ATTACHMENT D



ATTACHMENT E

DRAFT
#104-11

CITY OF NEWTON
IN BOARD OF ALDERMEN
May 10, 2011

ORDERED:

That the Board, finding that the public convenience and welfare will be substantially served by its action, that the use of the site will be in harmony with the conditions, safeguards and limitations set forth in the Zoning Ordinance, and that said action will be without substantial detriment to the public good, and without substantially derogating from the intent or purpose of the Zoning Ordinance, grants approval of the following Petition #104-11 for a SPECIAL PERMIT and SITE PLAN APPROVAL to EXTEND a NONCONFORMING STRUCTURE by expanding and enclosing an existing breezeway to create a mudroom, increasing the floor area ratio from .369 to .389 on an existing nonconforming single family dwelling at 61 Park Avenue, Ward 7, on land known as SBL 73,7, 15, containing approximately 9,665 sq. ft. of land in a district zoned SINGLE RESIDENCE 2. Ref: Sec. 30-24, 30-21(b) of the City of Newton Rev Zoning Ord, 2007, as recommended by the Land Use Committee for the reasons given by the Committee through its Chairman Alderman Ted Hess-Mahan:

1. When reviewing this petition, the Board should consider whether the extension of a structure, which is nonconforming with regard to rear yard setback and FAR, is not substantially more detrimental to the neighborhood for the following reasons:
 - a. There will be no expansion of the existing footprint of the house and the property will remain conforming with regard to lot coverage and open space.
 - b. The visual impact from the street and adjacent properties will be insignificant, as the mass of the building is increasing slightly with the addition of an enclosed breezeway.
 - c. The property is currently well-screened with a combination of plant material and brick/wood fencing.
 - d. The renovations are historically appropriate to the period and style of the 1930s home.

PETITION NUMBER: #104-11

PETITIONER: Heidi K. Gardner

LOCATION: 61 Park Avenue, Section 73, Block 7, Lot 15 containing approximately 9,665 sq. ft. of land

OWNER: Heidi K. Gardner

ADDRESS OF OWNER: 61 Park Avenue, Newton, MA

TO BE USED FOR: Enclosed breezeway from garage to the main house

CONSTRUCTION: Wood frame

EXPLANATORY NOTES: Section 30-21(b) to allow the extension of a nonconforming structure in the rear setback and to allow an increase in the nonconforming FAR and Section 30-24 for issuance of a special permit.

ZONING: Single Residence 2 District

Approved subject to the following conditions:

1. All buildings, parking areas, driveways, walkways, landscaping and other site features associated with this special permit/site plan approval shall be located and constructed consistent with:
 - "Plot Plan of Land Showing Proposed Renovations at 61 Park Avenue in Newton, Mass.," dated May 21, 2009 and revised March 25, 2011, signed and stamped by Elliott J. Pasturzo, Professional Land Surveyor.
 - Architectural drawings as follows "Gardner/Matviak Residence," by Meyer and Meyer Inc. Architecture and Interiors, neither stamped nor signed and dated April 13, 2011:
 - "A-1.1, Proposed First Floor Plan"
 - "A-1.2, Proposed Second Floor Plan"
 - "A-2.1, Exterior Elevations"
 - "A-2.2, Exterior Elevations"
 - "A-3.1, Sections"
 - "A-3.2, Sections"
2. No building permit shall be issued pursuant to this Special Permit/Site Plan Approval until the petitioner has:
 - a. recorded a certified copy of this Board Order for the approved Special Permit/Site Plan with the Registry of Deeds for the Southern District of Middlesex County.
 - b. filed a copy of such recorded Board Order with the City Clerk, the Department of Inspectional Services, and the Department of Planning and Development.

- c. obtained a written statement from the Planning Department that confirms the building permit plans are consistent with plans approved in Condition #1.
- 3. No occupancy permit for the use covered by this special permit/site plan approval shall be issued until the petitioners have:
 - a. filed with the City Clerk, the Department of Inspectional Services, and the Department of Planning and Development a statement by a registered architect or engineer certifying compliance with Condition #1.
 - b. submitted to the Department of Inspectional Services, and the Department of Planning and Development a final as-built survey plan in paper and digital format.